*LW1210 - Labour and Employment Law*

With Paul Tilley

*UNIT 2 – Employment Law – CHAPTER 6 - Employment Standards*

*Employment Standards in Canada*

Employment standards are the minimum standards established by law that define and guarantee rights in the workplace. Any employer is free to meet or exceed the minimum standards set in law, however they cannot contract fail to meet them – even with the employees agreement. Like other labour legislation, each province and territory in Canada has its own legislation. About 90 percent of Canada’s workforce are protected by the employment laws of their province or territory, with the remainder being covered by Federal legislation.

Employment standards legislation covers rights in areas such as hours of work and overtime pay, minimum wage, pay, vacation time and vacation pay, public holidays, coffee and meal breaks, pregnancy leave and parental leave, personal emergency leave, family medical leave, termination notice and termination pay. Here are some key points:

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| *Provincial:* [Quick guide to NL Employment Standards PDF](http://www.nlimmigration.ca/media/2839/employmentstandards.pdf)Provincial: [*Nl Employment Standards*](http://www.gov.nl.ca/lra/faq/labourstandards.html) *FAQ*Provincial: *[Nl Employment Standards Legislation](http://www.gov.nl.ca/lra/agency/legislation.html)**Federal:* [*Canada Labour Code*](http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._986/) |

# *Labour Standards in Newfoundland and Labrador*

In NL Employment standards are laid out in the Labour Standards Act. All provincial labour legislation in this province is administered by the Labour Relations Agency. These pieces of legislation set out the minimum terms and condition of work including hours of work, overtime, holidays/vacation, and leave. The legislation establishes the basic rights and responsibilities of employers and employees. Employees and employees cannot contract below the established minimum standards however they are free to exceed them. In addition to establishing minimum standards, the labour standards legislation provides context for the Labour Relations Agency’s policy and administrative activities.

The Labour Relations Agency supports and promotes positive employment relationships in the province, administers minimum terms and conditions of employment, and provides workplace dispute resolution services. The Agency provides a number of services to unionized and nonunionized employees and employers throughout the province. These include:

* protection of the basic labour rights of all employees and employers;
* assistance with resolving workplace issues and negotiating collective agreements;
* creation of partnerships to promote the currency and relevant of the employment
* relations regulatory framework (i.e. statutes, regulations, policies); and
* provision of education, training, and support programs to stakeholders.

The Agency provides:

* employees with information and support respecting their employment rights and responsibilities, such as minimum wages, overtime pay, various forms of leave (e.g.

annual, parental, compassionate care, reservist), rest periods, and statutory holidays;

* employers with information regarding their employment rights and responsibilities, as

well as support in developing policies and practices that promote effective employment

relations; and

* both employees and employers with professional mediation and conciliation, and

workplace intervention services to maintain a productive workplace.

# Key Provisions Contained in the Labour Standards Legislation:

## Wages (minimum wages, wage protection & tips)

* See:        
  [27.   Regulations re: minimum wage](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#27_) ,      
  [28.   Rep. by 2001 c33 s11](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#28_)

[29.   Rep. by 1992 c17 s10](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#29_)    
[30.   Periodic review](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#30_)

[31.   Payment of minimum wage](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#31_)

PART V  
WAGE PROTECTION

[32.   Meaning of bank](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#32_)   
[33.   Payment of wages](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#33_)  
[34.   Place and time of payment](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#34_)  
[34.1   Expense advance](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#34_1)  
[35.   Particulars to be provided](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#35_)  
[36.   Illegal provisions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#36_)  
[36.1   Special clothing](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#36_1)  
[37.   Priority of wage claim](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_)  
[37.1   Definition](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_1)  
[37.2   Non-application](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_2)  
[37.3   Directors' liability for wages](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_3)  
[37.4   No relief by contract, etc.](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_4)  
[37.5   Civil remedies protected](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#37_5)

PART VI  
TIPS OR GRATUITIES     
[38.   Tips or gratuities](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#38_)

## Hours of Work (Maximum hours and overtime)

## **See:**

PART III  
HOURS OF WORK

[21.   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#21_)    
[21.1   Designation of week](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#21_1)  
[22.   Day of rest](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#22_)  
[23.   Daily maximum hours](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#23_)  
[24.   Rest period](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#24_)

[25.   Overtime](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#25_)      
[25.1   Overtime not compensible](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#25_1)      
[26.   Regulations](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#26_)

## Vacation & Paid Holidays

PART I  
VACATIONS WITH PAY

[7.   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#7_)

[8.   Annual vacation with pay](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#8_)

[9.   Vacation pay](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#9_)

[10.   Time of payment](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#10_)

[11.   Excess vacation](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#11_)

[12.   Where notice of termination given](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#12_)

[13.   Regulations](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#13_)

               PART II  
PUBLIC HOLIDAYS

[14.   Meaning of "public holiday"](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#14_)

[15.   Public holidays](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#15_)

[16.   Additional day instead](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#16_)

[17.   Consent of employer and employee](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#17_)

[18.   Services in the public interest](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#18_)

[19.   Some employees excluded](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#19_)

[20.   Limiting public holidays](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#20_)

## Leave (Employee Rights during Leaves, Statutory Leaves of Absence, Parental Leave, Emergency Leave, Family Medical Leave)

* PREGNANCY, ADOPTION AND PARENTAL LEAVE
* [39.   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#39_)
* [40.   Pregnancy leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#40_)
* [41.   Special circumstances](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#41_)
* [42.   End of pregnancy leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#42_)
* [43.   Adoption leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_)
* [43.1   Special circumstances](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_1)
* [43.2   End of adoption leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_2)
* [43.3   Parental leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_3)
* [43.4   Special circumstances](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_4)
* [43.5   End of parental leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_5)
* [43.6   Change of notice](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_6)
* [43.7   Employee's rights after leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_7)
* [43.8   Effect of leave on benefits](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_8)
* [43.9   Employee may not be dismissed](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_9)
* PART VII.1  
  BEREAVEMENT AND SICK LEAVE
* [43.10   Bereavement and sick leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_10)
* [43.11   Sick and family responsibility leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_11)
* PART VII.2  
  TRAVEL COSTS
* [43.12   Travel costs from remote sites](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_12)
* PART VII.3  
  COMPASSIONATE CARE LEAVE
* [43.13   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_13)
* [43.14   Entitlement to leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_14)
* [43.15   Notice to employer](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_15)
* [43.16   Employee protection](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_16)
* PART VII.4  
  UNPAID LEAVE FOR RESERVISTS
* [43.17   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_17)
* [43.18   Unpaid leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_18)
* [43.19   Notice of leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_19)
* [43.20   Exemption](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_20)
* [43.21   Employee protection](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_21)
* [43.22   Regulations](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_22)
* PART VII.5  
  CRIME-RELATED CHILD DEATH OR DISAPPEARANCE LEAVE
* [43.23   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_23)
* [43.24   Entitlement to leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_24)
* [43.25   Notice](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_25)
* [43.26   Employee protection](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_26)
* [43.27   Regulations](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_27)
* PART VII.6  
  CRITICALLY ILL CHILD CARE LEAVE
* [43.28   Definitions](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_28)
* [43.29   Entitlement to leave](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_29)
* [43.30   Notice](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_30)
* [43.31   Employee protection](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_31)
* [43.32   Regulations](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#43_32)
* PART VIII  
  ADOPTION LEAVE
* [44.   Rep. by 1992 c17 s13](http://assembly.nl.ca/Legislation/sr/statutes/l02.htm#44_)

# Administration and Enforcement of Labour Standards

* + **Filing a complaint**

If a person believes that the employer is violating employment standards, a complaint can be filed. A person under NL legislation has two years from the date of the infraction to file a complaint if they believe that their rights under the act have been violated. However, if the person is no longer employed, the complaint must be filed within six months of termination. The compliant should make detailed notes of the circumstances surrounding the complaint as that person will likely to be required to produce such documentation.